



IRA A. JACKSON  
COMMISSIONER

# *The Commonwealth of Massachusetts*

## *Department of Revenue*

*Loverett Saltonstall Building*

*100 Cambridge Street, Boston 02204*

July 31, 1984

The ("Company") is engaged in the business of manufacturing custom architectural woodwork, including custom mouldings.

The moulder machine used by the Company to manufacture mouldings requires cutters. When it is not practicable to purchase cutters the Company grinds cutters for the moulder machine. Customers ordering mouldings which require these specially ground cutters are required to purchase the cutters. The Company also grinds cutters to sell to other manufacturing businesses. All cutters ground are sold to customers.

The Company is interested in purchasing a machine ("grinder") to grind cutters. The Company requests a ruling as to whether its purchase of the grinder will be subject to the Massachusetts sales tax.

Massachusetts General Laws Chapter 64H, Section 6(s) exempts from sales taxation sales of machinery and replacement parts thereof used directly and exclusively in the actual manufacture, conversion or processing of tangible personal property to be sold. No exemption exists for sales of machinery used to manufacture items that the purchaser of the machinery uses itself rather than sells.

Machinery is "deemed to be used directly and exclusively in the actual manufacture, conversion or processing of tangible personal property to be sold only where such machinery is used solely during a manufacturing, conversion or processing operation to effect a direct and immediate physical change upon the tangible personal property to be sold...". (G.L. c. 64H, § 6(s)).

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The grinder will be used directly and exclusively in the actual manufacture of cutters. The grinder will be used solely during a manufacturing operation to effect a direct and immediate physical change upon the cutters. For purposes of exempting the grinder from the sales tax, the cutters manufactured must be sold within the meaning of Chapter 64H.

The definition of sale includes any transfer of title or possession or both, of tangible personal property for consideration in any manner or by any means whatsoever or a transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the customer. (G.L. c. 64H, § 1(12)).

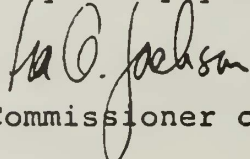
The cutters manufactured by the  
are not consumed or destroyed in the process of manufacturing mouldings. Cutters are not merely component parts of the moulder machine but are reusable and of unique utility to the particular customer.

If title to, or possession of the cutters is transferred for a consideration to the customer they are sold within the meaning of Chapter 64H.

For purposes of exempting the grinder from sales taxation title to the cutters must pass to the customer prior to any use of the cutters by the  
Following use by the Company, the customer must have a continuing right to possession of the cutter, whether he exercises that right immediately or leaves the cutter in the Company's possession.

The grinder, to be purchased by the  
will be exempt from Massachusetts sales taxation if the grinder is used directly and exclusively in the actual manufacture of the cutters, and all cutters ground are sold within the meaning of Chapter 64H.

Very truly yours,

  
Commissioner of Revenue

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